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U.S. Department of Justice

Immigration and Naturalization Service

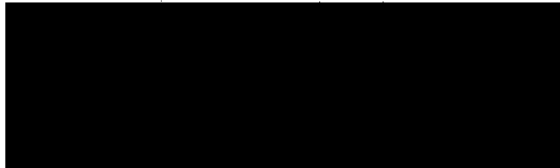
B6

OFFICE OF ADMINISTRATIVE APPEALS

425 Eye Street N.W.

ULLB, 3rd Floor

Washington, D.C. 20536



File:

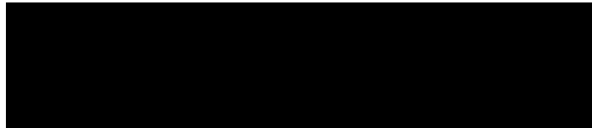


Office: VERMONT SERVICE CENTER

Date:

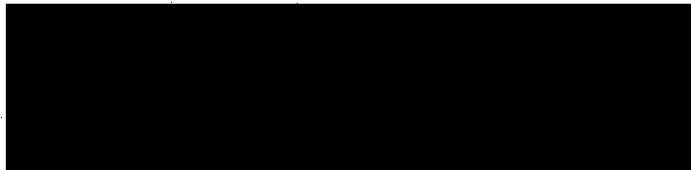
JAN 24 2003

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to § 203(b)(3) of the
Immigration and Nationality Act, 8 U.S.C. 1153(b)(3)

IN BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case.
Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was initially approved by the Director, Vermont Service Center. On further review of the record, the director determined that the beneficiary was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, with his reasons, and ultimately revoked the approval of the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

Through former counsel, the petitioner, a factory, filed an immigrant visa petition for the beneficiary, a cabinet maker, and the director approved it on August 14, 1999. On February 21, 2001, former counsel, however, advised the Service of his withdrawal of representation and gave instructions to disregard any previously submitted Notice of Entry of Appearance as Attorney or Representative (G-28).

The Service notified the petitioner of its intent to revoke the approved petition on May 7, 2002. The director determined that the beneficiary, as of June 27, 2001, no longer worked for the petitioner and revoked the petition on August 13, 2002.

Former counsel attempted to file an appeal for the beneficiary on August 31, 2002. He had, however, withdrawn any G-28 on February 21, 2001. No authorized party has filed a G-28 since the withdrawal. 8 CFR 292.4(a). An appeal is improperly filed if an attorney does not submit a G-28 with it.

8 CFR 103.3(a)(2)(v)(A) explicitly provides,

(2) Appeal by attorney or representative without proper Form G-28--(i) General. If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee the Service has accepted will not be refunded regardless of the action taken.

Similarly, only an authorized party may maintain an appeal. 8 CFR 103.3(a)(2)(v) states:

Improperly filed appeal--(A). Appeal filed by person or entity not entitled to file it-- (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the

Service has accepted will not be refunded.

Finally, 8 CFR 103.3(a)(1)(iii) states:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but, rather, by the beneficiary. Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.